

United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	03 C 50332	DATE	12/11/2003
CASE TITLE	USA vs. Partee		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

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DOCKET ENTRY:

- (1) ☐ Filed motion of [use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due ____.
- (3) ☐ Answer brief to motion due _____. Reply to answer brief due _____.
- (4) ☐ Ruling/Hearing on _____ set for _____ at _____.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on _____ set for _____ at _____.
- (7) ☐ Trial[set for/re-set for] on _____ at _____.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to _____ at _____.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]
☐ FRCP4(m) ☐ General Rule 21 ☐ FRCP41(a)(1) ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons stated on the reverse memorandum opinion and order, the court grants the government's motion to dismiss the section 2255 motion and dismisses this cause in its entirety.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	LC	courtroom deputy's initials	U.S. DISTRICT COURT 2003 DEC 11 PM 3:39 Date/time received in central Clerk's Office	number of notices	Document Number 12
				DEC 11 2003	
				date docketed	
				docketing deputy initials	
				12-11-03	
date mailed notice	SW	mailing deputy initials			

MEMORANDUM OPINION AND ORDER

Defendant, Jerry K. Partee, filed a motion pursuant to 28 U.S.C. § 2255, raising several challenges to his sentence which was imposed following his guilty plea to one count of conspiracy to distribute 50 grams or more of cocaine base in violation of 21 U.S.C. §§ 841(a)(1) and 846. The government has moved to dismiss defendant's section 2255 motion based on an express waiver in his written plea agreement of his right to seek relief under section 2255. Defendant was originally given until November 3, 2003, to file a response to the motion to dismiss. Instead, on November 3, 2003, defendant filed a motion for enlargement of time to file his response. This court, on November 5, 2003, granted the motion for enlargement of time and gave defendant until December 4, 2003, to respond. The November 5 order also states that no further extensions will be granted. On December 8, 2003, defendant filed a second motion for enlargement of time to respond. The court has denied the December 8 motion for enlargement of time and will decide the government's pending motion to dismiss.

A waiver in a written plea agreement to seek relief pursuant to section 2255 is valid and enforceable absent a claim that counsel was ineffective in connection with negotiating the waiver itself. Mason v. United States, 211 F. 3d 1065, 1069 (7th Cir. 2000). Here, defendant's plea agreement expressly waives any right to seek relief under section 2255. Further, defendant does not claim any ineffectiveness of counsel related to the negotiation of that waiver. In fact, defendant stated during the Rule 11 colloquy that his attorney's representation was "outstanding." He also told the court that he understood that as part of his plea agreement he was giving up his right to pursue a section 2255 remedy. There is no doubt that defendant waived any claim to relief under section 2255 in this case. Thus, the court grants the government's motion to dismiss defendant's section 2255 motion and dismisses this cause in its entirety.

United States District Court
Northern District of Illinois
Western Division

United States of America

JUDGMENT IN A CIVIL CASE

v.

Case Number: 03 C 50332

Jerry K. Partee

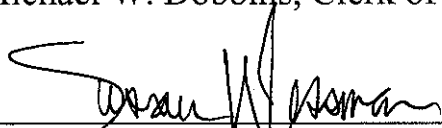
- ☐ Jury Verdict. This action came before the Court for a trial by jury. The issues have been tried and the jury rendered its verdict.
- ☒ Decision by Court. This action came to trial or hearing before the Court. The issues have been tried or heard and a decision has been rendered.

IT IS HEREBY ORDERED AND ADJUDGED that the court grants the government's motion to dismiss the section 2255 motion and dismisses this cause in its entirety.

FILED-WD
2003 DEC 11 PM 3:39
U.S. DISTRICT COURT

Michael W. Dobbins, Clerk of Court

Date: 12/11/2003


Susan M. Wessman, Deputy Clerk